

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

DCA DESIGN, LLC D/B/A DESIGN DCA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
BELLAVIDA CUSTOM HOMES, LLC	§	Civil Action No.
D/B/A BELLA VIDA CUSTOM HOMES,	§	
HOMERO RODRIGUEZ, WISEMAN	§	Jury Trial Demanded
BUILDERS LLC, ROB WISEMAN, and	§	
IBRAHIM ABDEL-LATIF,	§	
	§	
Defendants.		

**COMPLAINT**

Plaintiff, DCA Design, LLC d/b/a Design DCA (“Design DCA”), files this Complaint against defendants Bellavida Custom Homes, LLC D/B/A Bella Vida Custom Homes (“Bella Vida”), Homero Rodriguez (“Rodriguez”), Wiseman Builders LLC (“Wiseman Builders), Rob Wiseman (“Wiseman”), and Ibrahim Abdel-Latif (“Abdel-Latif”), and for its causes of action shows the following:

**THE PARTIES**

1. Design DCA is a Texas limited liability corporation with its principal place of business in Houston, Texas.
2. Bella Vida is a Texas limited liability corporation with its principal place of business in Houston, Texas. Service may be had on Bella Vida by serving its manager, Homero Rodriguez, at his place of business, 403 North Loop East, Houston, TX 77022, or wherever he may be found.

3. Rodriguez is an individual residing in this district, and may be served with process at his place of business, 403 North Loop East, Houston, TX 77022, or wherever he may be found.

4. Wiseman Builders is a Texas limited liability corporation with its principal place of business in Houston, Texas. Service may be had on Wiseman Builders by serving its manager, Rob Wiseman, at his place of business, 1113 Vine Street, Houston, TX 77002, or wherever he may be found.

5. Wiseman is an individual residing in this district, and may be served with process at his place of business, 1113 Vine Street, Houston, TX 77002, or wherever he may be found.

6. Abdel-Latif is an individual residing in this district, and may be served with process at his residence, 3302 Freshmeadows, Houston, Texas 77063, or wherever he may be found.

#### **JURISDICTION AND VENUE**

7. This is an action for copyright infringement arising under the laws of the United States of America, codified at 17 U.S.C. §§ 101 *et seq.*

8. This court has exclusive federal jurisdiction over the subject matter of Plaintiff's claim under 28 U.S.C. § 1338(a).

9. Each of the Defendants is subject to the personal jurisdiction of this Court because they reside in this District and solicit and transact business in this District on a regular basis, and because acts complained of herein occurred and are occurring in this District.

10. Venue in this District is proper under 28 U.S.C. § 1400(a) because Defendants reside or may be found in this District.

**FACTUAL BACKGROUND**

11. Design DCA is engaged in the business of creating, publishing, distributing, advertising, and licensing residential home designs.

12. One such building design (known as an “architectural work” under 17 U.S.C. § 101) that Design DCA has created is known as Carson-4032 (hereinafter the “Copyrighted Work”).

13. Design DCA has applied for registrations of its architectural work and technical drawings copyrights in the Copyrighted Work, has paid the requisite fees, and deposited the necessary copies of the work with the United States Copyright Office. The United States Copyright Office has received all such materials, and has assigned such applications case numbers 1-5947539431 (architectural work) and 1-5947539729 (technical drawings).

14. The Copyrighted Work contains material wholly original to Design DCA that is copyrightable subject matter under 17 U.S.C. §§ 101 *et seq.*, including the overall look and feel of the work, and the selection and arrangement of the constituent parts of the work.

15. Design DCA is the sole owner of all right, title and interest in and to the Copyrighted Work.

16. Design DCA has widely disseminated the Copyrighted Work as part of its marketing activities, including displaying it on Design DCA’s own website and on the stock plan website, [www.houseplans.com](http://www.houseplans.com).

17. Wiseman Builders is a Houston area developer, and Wiseman is its principal and owner. Both Wiseman Builders and Wiseman have known of Design DCA for many years, and have solicited business from Design DCA in the past.

18. At all material times, both Wiseman Builders and Wiseman each have had a reasonable opportunity to have seen the Copyrighted Work, including on Design DCA's website and on the stock plan website, [www.houseplans.com](http://www.houseplans.com).

19. At all material times, both Wiseman Builders and Wiseman have known, or reasonably should have known, that Design DCA's works were protected by copyrights.

20. At all material times, Wiseman has had the power and ability to supervise and control all activities of Wiseman Builders, including the activities described in this Complaint.

21. At all material times, Wiseman has had a direct financial interest in all activities of Wiseman Builders, including the activities described in this Complaint.

22. Wiseman Builders and Wiseman created or caused to be created certain house plans that they subsequently distributed to Bella Vida. These plans (the "Infringing Plans") are a copy and/or derivative of the Copyrighted Work.

23. Bella Vida is a Houston area developer, and Rodriguez is its principal and owner.

24. At all material times, Rodriguez has had the power and ability to supervise and control all activities of Bella Vida, including the activities described in this Complaint.

25. At all material times, Rodriguez has had a direct financial interest in all activities of Bella Vida, including the activities described in this Complaint.

26. Abdel-Latif is the owner of real estate located at 6913 Burgess, Houston, Texas.

27. Abdel-Latif, Rodriguez, and Bella Vida have constructed and/or caused to be constructed a house at 6913 Burgess, Houston, Texas.

28. At all material times, Abdel-Latif has had the power to supervise and control what house design was constructed on his real property at 6913 Burgess, Houston, Texas, and as the owner of the real property has a direct financial interest in the house constructed on it.

29. The house constructed at 6913 Burgess, Houston, Texas (the “Infringing House”) was constructed from the Infringing Plans, and is a copy and/or derivative of the Copyrighted Work.

30. Abdel-Latif, Rodriguez, and Bella Vida have reproduced the Infringing Plans and/or caused them to be reproduced.

31. Abdel-Latif, Rodriguez, and Bella Vida have distributed copies of the Infringing Plans and/or caused them to be distributed. Such distribution includes providing copies of the Infringing Plans to subcontractors and to City of Houston building authorities.

32. Abdel-Latif, Rodriguez, and Bella Vida have created and/or caused to be created marketing materials for the Infringing House. These marketing materials include drawings (the “Infringing Drawings”) showing the floorplan of the Infringing House. The Infringing Drawings are a copy and/or derivative of the Copyrighted Work

33. Abdel-Latif, Rodriguez, and Bella Vida have distributed copies of the Infringing Drawings and/or caused them to be distributed. Such distribution includes distribution to the public on the website, [www.har.com](http://www.har.com).

34. At all material times, Abdel-Latif has had the power to supervise and control how the Infringing House was marketed (including whether or not to distribute the Infringing Drawings), and as the owner of the Infringing House has a direct financial interest in the distribution of the Infringing Drawings to market the Infringing House.

35. Abdel-Latif, Rodriguez, and Bella Vida have used the Infringing Drawings, the Infringing Plans, and the Infringing House itself in their advertising of the Infringing House.

**COUNT I: COPYRIGHT INFRINGEMENT**

(17 U.S.C. §§ 101 *et seq.*)

36. Design DCA realleges and incorporates herein by reference each and every allegation set forth in Paragraphs 1 through 35 above.

37. By creating the Infringing Plans or causing them to be created, Wiseman Builders and Wiseman have each violated Design DCA's exclusive rights in the Copyrighted Work, including the right to reproduce and the right to prepare derivative works.

38. By distributing the Infringing Plans to Bella Vida, Wiseman Builders and Wiseman have each violated Design DCA's exclusive rights in the Copyrighted Work, including the right to distribute.

39. By reproducing the Infringing Plans or causing them to be reproduced, Abdel-Latif, Rodriguez, and Bella Vida have each violated Design DCA's exclusive

rights in the Copyrighted Work, including the right to reproduce and the right to prepare derivative works.

40. By distributing the Infringing Plans or causing them to be distributed, Abdel-Latif, Rodriguez, and Bella Vida have each violated Design DCA's exclusive rights in the Copyrighted Work, including the right to distribute.

41. By constructing the Infringing House or causing it to be constructed, Abdel-Latif, Rodriguez, and Bella Vida have each violated Design DCA's exclusive rights in the Copyrighted Work, including the right to reproduce and the right to prepare derivative works.

42. By creating the Infringing Drawings or causing them to be reproduced, Abdel-Latif, Rodriguez, and Bella Vida have each violated Design DCA's exclusive rights in the Copyrighted Work, including the right to reproduce and the right to prepare derivative works.

43. By distributing the Infringing Drawings or causing them to be distributed, Abdel-Latif, Rodriguez, and Bella Vida have each violated Design DCA's exclusive rights in the Copyrighted Work, including the right to distribute.

44. Pursuant to 17 U.S.C. § 504(b), Design DCA is entitled to recover from each defendant, jointly and severally, its actual damages suffered as a result of these infringements.

45. Pursuant to 17 U.S.C. § 504(b), Design DCA is entitled to recover all profits of each Defendant that are attributable to the infringement.

46. Wiseman is vicariously liable for the infringements committed by Wiseman Builders that are described above, and is thus jointly and severally liable for any award against it.

47. By providing the Infringing Plans to Bella Vida with knowledge of Design DCA's copyrights, Wiseman and Wiseman Builders each materially induced, assisted, or caused the acts of infringement of Abdel-Latif, Bella Vida, and Rodriguez described above. Wiseman and Wiseman Builders have each thus committed contributory infringement, and as such are each jointly and severally liable for any award against any Abdel-Latif, Bella Vida, or Rodriguez.

48. Rodriguez is vicariously liable for the infringements committed by Bella Vida that are described above, and is thus jointly and severally liable for any award against it.

49. Abdel-Latif is vicariously liable for the infringements committed by Bella Vida and Rodriguez that are described above, and is thus jointly and severally liable for any award against either of those parties.

50. Pursuant to 17 U.S.C. § 502, Design DCA is entitled to preliminary and permanent injunctive relief to restrain copyright infringement of the Copyrighted Works, including but not limited to the further reproduction or distribution of the Infringing Plans and Infringing Drawings, and the construction, marketing, sale, or rental of the Infringing House.

51. Pursuant to 17 U.S.C. § 503(b), Design DCA is entitled to an order requiring the destruction or other reasonable disposition of all infringing copies found to have been made in violation of its exclusive rights.



**CONDITIONS PRECEDENT**

52. Design DCA generally avers that all conditions precedent to its rights of recovery have occurred or have been performed.

**JURY DEMAND**

53. Pursuant to Federal Rule of Civil Procedure 38, Design DCA demands trial by jury on all issues so triable.

WHEREFORE, DCA Design, LLC d/b/a Design DCA prays that defendants be cited to appear and answer, and that upon final trial that it have and recover from defendants as requested herein, that it have injunctive and destructive relief as requested herein, and that it have such and other relief as it may show itself to be entitled.

Date: October 31, 2017

Respectfully submitted,

By: /s/ Louis K. Bonham

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